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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,405	07/15/2008	Luc Martin	8985-0051	7035
7590	06/08/2009		EXAMINER	
Jeffrey S. Sokol Cook & Franke 660 E. Mason Street Milwaukee, WI 53202			JOHN, CLARENCE	
			ART UNIT	PAPER NUMBER
			2443	
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			06/08/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/587,405	MARTIN, LUC	
	<b>Examiner</b>	<b>Art Unit</b>	
	CLARENCE JOHN	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 July 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 26 July 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 11/7/2006, 11/13/2006.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Conner et al. (US 6,816,882).

With respect to Claim 1, Conner teaches a system for on demand, provisioning of at least one application to at least one client, said system comprising:

an online provisioning and management system configured for communication with the at least one client over a computer communication system, (Column 3, lines 66-67 continued on Column 4, lines 1-6); said online provisioning and management system configured to create an application instance (Column 14, lines 55-59); of the at least one application in response to a rental request from the at least one client over said communication system (Column 13, lines 10-16); said application instance being a separate, stand-alone installation of the at least one application (Column 2, lines 22-23, Column 10, lines 11-14); said application instance being dedicated to the at least one client, (Column 15, lines 41-46); said online provisioning and management system

configured to allow access to Said application instance by users of the at least one client over said computer communication system, (Column 7, lines 47-50); thereby permitting the users to use said application instance, (Column 11, lines 18-20); said online provisioning and management system configured to provide the at least one client with access to provisioning and management functions over said computer communication system for allowing the at least one client to rent (Column 11, lines 34-36); manage and maintain said application instance on demand (Column 7, lines 29-31, Column 13, lines 26-30).

With respect to Claim 2, Conner teaches the system of claim 1, wherein said online provisioning and management system is an application installed in an application service provider computing environment that is remote from the at least one client. (Column 9, lines 62-64).

With respect to Claim 3, Conner teaches the system of claim 1, wherein access to said application instance by said users is provided by an application URI and access to said provisioning and management functions is provided by a provisioning and management URI, (Column 7, lines 44-46); wherein said application URI and said provisioning and management URI are not identical. (Column 13, lines 17-19. Here a service provider having multiple storefronts will have a different URI with respect to the application).

With respect to Claim 4, Conner teaches the system of claim 1, wherein the at least one application is any off- the-shelf, server-based software application. (Column 3, lines 38-41, Figure 7, Application Server Software 706).

With respect to Claim 5, Conner teaches the system of claim 1, wherein said provisioning and management functions include the ability for the at least one client to save and restore a backup copy of said application instance to a local storage device to allow reconstruction of said application instance. (Column 13, lines 3—34, Column 14, lines 42-46).

With respect to Claim 6, Conner teaches the system of claim 1, wherein said provisioning and management functions include the ability for the at least one client to set and change client configuration data relating to said application instance. (Column 7, lines 56-59. Here the client has the ability to setup, customize and manage the data).

With respect to Claim 7 , Conner teaches The system of claim 1, wherein said provisioning and management functions include the ability for the at least one client to upgrade said application instance to a newer code version of said application instance, (Column 1, lines 50-53); or downgrade said application instance to an older code version of said application instance.

With respect to Claim 9, Conner teaches a method for on demand provisioning of at least one application to at least one client, said method comprising the steps of: providing an online provisioning and management system configured for communication with the at least one client over a computer communication system (Column 3, lines 66-67 continued on Column 4, lines 1-6); and for providing provisioning and management functions; (Column 8, lines 65-67); receiving a rental request for the at least one application from the at least one client over said computer communication system; (Column 13, lines 10-16); causing said online provisioning and management system to create an application instance of the at least one application in response to said rental request, (Column 14, lines 55-59); said application instance being a separate stand-alone installation of the at least one application, (Column 2, lines 22-23, Column 10, lines 11-14); said application instance being dedicated to the at least one client; (Column 15, lines 41-46); allowing access to said application instance by users of said at least one client over said computer communication system, (Column 7, lines 47-50); thereby permitting said users to use said application instance; (Column 11, lines 18-20); and allowing access by the at least one client to said provisioning and management functions over said computer communication system, (Column 11, lines 34-36); said provisioning and management function comprising features to allow the at least one client to rent, manage, and maintain said application instance on demand. (Column 7, lines 29-31, Column 13, lines 26-30).

With respect to Claim 10, Conner teaches the method of claim 9, wherein said online provisioning and management system is an application installed in an application service provider computing environment that is remote from the at least one client. (Column 9, lines 62-64).

With respect to Claim 11, Conner teaches the method of claim 9, wherein access to said application instance by said users is provided by an application URI and access to said provisioning and management functions is provided by a provisioning and management URI, (Column 7, lines 44-46); wherein said application URI and said provisioning and management URI are not identical. (Column 13, lines 17-19. Here a service provider having multiple storefronts will have a different URI with respect to the application).

With respect to Claim 12, Conner teaches the method of claim 9, wherein the at least one application is any off-the-shelf, server-based software application. . (Column 3, lines 38-41, Figure 7, Application Server Software 706).

With respect to Claim 13, Conner teaches the method of claim 9, wherein said provisioning and management functions include the ability for the at least one client to save and restore a backup copy of said application instance to a local storage device to allow reconstruction of said application instance. (Column 13, lines 3—34, Column 14, lines 42-46).

With respect to Claim 14, Conner teaches the method of claim 9, wherein said provisioning and management functions include the ability for the at least one client to set and change client configuration data relating to said application instance. (Column 7, lines 56-59. Here the client has the ability to setup, customize and manage the data).

With respect to Claim 15, Conner teaches the method of claim 9, wherein said provisioning and management functions include the ability for the at least one client to upgrade said application instance to a newer code version of said application instance, (Column 1, lines 50-53); or downgrade said application instance to an older code version of said application instance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conner in view of Guheen et al. (US 2004/0107125).

With respect to Claims 8 and 16, Conner teaches the limitations as described in Claims 1 and 9 respectively.

However, Conner does not explicitly state said provisioning and management functions include the ability to provide the at least one client with online demonstrations of the at least one application.

Conversely, Guheen teaches in his network which has software applications and service providers about demonstrating the look and feel of an application to the end user or client. (Page 65, paragraph [1727]).

Conner teaches in his network about software applications and service contracts with service providers. Guheen teaches in his network which has software applications and service providers. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Guheen with Conner in order to have a realistic understanding of the application without requiring an extensive construction effort.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLARENCE JOHN whose telephone number is (571)270-5937. The examiner can normally be reached on Mon - Fri 8:00 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CJ/  
Patent Examiner  
Art Unit 2443  
6/3/2009

/George C Neurauter, Jr./  
Primary Examiner, Art Unit 2443